

**TOWN OF CLARENCE, ERIE COUNTY
INDUSTRIAL DEVELOPMENT AGENCY**

MINUTES

March 15, 2012

Mr. Hartzell called the meeting to order at 8:00 a.m.

Roll call was taken and present were Elaine Wolfe, David Schuster, Michael Buettner, Chris Kempton, and Chairman Hartzell. Mary Powell arrived at 8:20 a.m. Mr. Ertel was absent as he was out of town. Also present were Paul Leone, Nathan Neill, Larry Meckler, Steven Bengart, Pamela Smith, and Cynthia Rosel. Guests were Matt Glynn of the Buffalo News, Kim Johnson and Wayne Drescher, CPA.

Minutes of February 16, 2012

There was a motion by Chris Kempton to approve the minutes of the February 16, 2012 meeting. There was a second by David Schuster. There was nothing on the question.

Vote: Ayes: Wolfe, Schuster, Buettner, Kempton, Hartzell. Noes: None
Absent: Ertel, Powell. Recuse: None. Motion carried.

Correspondence.

Cindi Rosel reported that there was a letter in the packet from Jane Corwin regarding proposed legislation modifying section 882 of the NYS General Municipal Law for the Board to review.

Mr. Hartzell asked if there was any comment on the letter from Assemblywoman Corwin. There was a brief discussion regarding the correspondence. Mr. Schuster asked if anyone knew why Ms. Corwin decided to this. Mr. Hartzell said he just received the letter and she has not contacted him personally. Mr. Neill answered that the problem is that the way the legislation is right now, that if all your Bonds are paid off, and you do not have any more debt, even though you have lease transactions, your agency would terminate. Mr. Schuster asked if this legislation would prevent that. Mr. Neill answered yes. With this amendment, all straight- lease transactions would have to terminate and that the municipality would have to consent to terminate the Agency. So the Town would have to consent to terminate the CIDA. As long as there is a debt, the agency will continue.

There was no further correspondence.

Audit Report.

Wayne Drescher handed out the Draft Audit Report and Management Letter. Mr. Drescher said, as he is required to report to the Board, there were no difficulties encountered in the course of the

Audit, no disagreements and no issues. They were given free and open access to all books, records, documents and materials that were necessary to complete the Audit.

Mr. Drescher went over the Independent Auditors' Report that states the Auditors opinion. He continued to go over the rest of the financials. In general, the CIDA report is very simple and this is a very clean report. There are still some companies that have not sent back their annual report. The third notice has gone out. Mr. Leone will follow-up and the attorneys will also send a follow-up letter. All of this information is required to go onto the PARIS reporting webpage. The complete Audit report will also be posted on the CIDA webpage. In general, there were no material weaknesses or significant deficiencies. There is one suggestion that in every case, that on expenditures, to make sure that they are substantially documented with itemized receipts. A charge card statement would not be sufficient. There were no questions or concerns with the report. Mr. Drescher said that the Audit report will be posted on the CIDA website.

There was a motion by Chris Kempton with a second by Elaine Wolfe to approve and accept the Auditor's Report as submitted. There was nothing on the question.

Vote: Ayes: Wolfe, Schuster, Buettner, Kempton, Hartzell. Noes: None
Absent: Ertel, Powell. Recuse: None. Motion carried.

New Business.

Mr. Leone asked the Attorney's where the Brothers of Mercy proposed project is at this time. Mr. Bengart said he understands that there is a way to go on this project. Mr. Neill said that he is in touch with Hawkins, Delafield and Wood relative to the new regulations. There is a conference call scheduled for next Wednesday on this project. Mr. Hartzell added that there are grant monies involved so there is a way to go.

Mr. Leone also asked the Board if they would like to discuss how they would like to proceed with the 8175 Rockledge Professional Park Project. Mr. Hartzell would like to discuss this after the Strategic Plan. Mr. Leone said that would be fine.

Mr. Leone has been getting several calls from different companies and individuals interested in CIDA benefits. He is also still working on the Niagara Produce expansion and a few others. He has been very busy.

Mr. Buettner wanted to know more about the Brothers of Mercy project. Mr. Leone said that would be a new 110 Unit Senior Housing complex on 11 acres. Mr. Leone asked Mr. Neill to explain. Mr. Neill added that it would be an expansion of the site that would be similar to what they have. It would be independent Senior Housing. Mr. Bengart added that would be non-assisted living. Mr. Hartzell added that most of the funding would be from grants, so it will be a while for this project to go forward.

Before going on to Old Business, Chairman Hartzell asked Chris Fusco to speak a little bit about the 485-b exemption. Mr. Hartzell and Ms. Fusco have been discussing this. If a project is not approved for IDA benefits, they can get the 485-b exemption program. This program was

adopted in the early 70's by the State Legislature. Ms. Fusco said that the 485-b exemption is a restricted program. It does not apply to school taxes, only Town and County. Ms. Fusco left to get more information and numbers so she could explain it more accurately. Mr. Hartzell moved on to the Treasurer's report.

Treasurer's Report.

Mr. Kempton went over the report through March 15, 2012. He reported on the balances in the checking and money market accounts. The Profit and Loss statement shows that fees received to date are \$11,996.86 with interest and earnings of \$428.74. Expenses to date are \$11,648.95. Net income to date is \$776.65. The budget was revised to better reflect what revenue expectations will be for the year. Mr. Kempton added that we reduced expected revenues on the budget to what was earned last year. We may not get the volume of projects that we had last year. Mr. Kempton added that as we go through the year, we may be able to zero the expenses out. There was a motion by David Schuster with a second by Michael Buettner to accept the Treasurer's Report. There was nothing further on the question.

Vote: Ayes: Wolfe, Schuster, Buettner, Kempton, Powell, Hartzell. Noes: None
Absent: Ertel. Recuse: None. Motion carried.

Mr. Hartzell welcomed members from the Occupy Buffalo Movement and from the Coalition of Economic Justice to the meeting. Mr. Hartzell asked if they had any questions about what the CIDA does. One of the members from OBM had some questions about the proposed amendment addressed in the letter from Jane Corwin. The group was concerned about the Authorities Budget Office losing control over IDA's because they are understaffed. Mr. Meckler added that the proposed legislation would not affect the ABO and added that the ABO will still have jurisdiction over IDA's. Samantha Colon of OBM added that the ABO can only do one investigation per IDA per year because of being understaffed. Mr. Bengart said that they did more than that this year. They did investigate the Clarence IDA and the outreach to the community. Andy Reynolds from the Coalition of Economic Justice had some questions regarding the time of the CIDA meetings. He thought it was an inconvenient time for the public to attend. He also said that it was difficult to find information on the website. He asked if it was possible to publicize public hearings more broadly than just in the Clarence Bee and the website. Mr. Bengart said that the information is on the website and if there is a public hearing scheduled, it would be on the agenda. Mary Powell said that we have to think about cost and control of putting in another publication. She added that the questions and comments are valid points. She went on to say that the CIDA is made up of volunteers and we have to work around the members schedule also. The IDA was open to meeting at a different time but early morning is and has been the best time for the members to meet. There has been attendance by interested parties as well as applicants for proposed projects at the public hearings at 8:00 a.m.

Ms. Colon agreed with Andy about the meeting time but was also here because she is concerned because she is being affected by what the CIDA is doing by giving away Erie County Tax abatements. Mr. Schuster explained if an applicant comes to the CIDA there is not reduction in the assessed value and that no taxes go down; there is no reduction when a benefit is given. The current tax remains the same. An abatement is given on the investment on the

addition/improvement only. The assessment on the land does not go down or on the existing building. The tax abatement is only on the addition. The abatement is given for a certain period of time and is the amount of the reduction is reduced over a number of years until they are at 100% taxable.

One of the other members of Occupy Buffalo, Eric, thanked the Board for their transparency in handing out some of the materials that were discussed at today's meeting. They normally do not get this response. His comments had to do with car dealership projects. His thoughts were that certain car dealerships would stay in the Clarence area because they have local demand to expand in the area. The incentive is already there. They would not locate in an area where there may not be a demand for that type of vehicle. Ms. Powell explained about Enhancement Zones. If a project meets those requirements, the project could be approved.

Mr. Hartzell spoke about the 485-b exemption program which he has issues with. If a business does not receive IDA benefits, they can go to the assessor's office and apply for this State program. Ms. Powell said that this program benefits small business. It is an old program and comes into play when a small business wants to expand. It is for the smaller businesses.

She also explained about the uniform tax exemption policy that all the IDA's have adopted.

There was also some discussion about the need for reform relative to benefits given to businesses. Mr. Hartzell said that there is no perfect program; there is always room for reform.

Ms. Fusco returned and continued the explanation on the 485-b program. It is a tax exempt program meant for smaller businesses not major industrial like the IDA. The project must be more than a \$10,000 project and the assessment has to go up more than \$10,000. There has to be an increase in the assessment. It is usually for an expansion. The amount of the reduction is only on that portion. It starts at 50% and graduates down 5% a year over 10 years (45%; 40%; 35% etc.). You cannot get both an IDA and a 485-b exemption. Mr. Buettner asked why they get this exemption. Ms. Fusco answered that it is an exemption that for businesses for improvements, and investment in the business and it does not abate school taxes. All they have to do is apply for it and meet the criteria. Mr. Neill said that you only get the abatement on the new value. It is designed to encourage businesses to expand. It is county wide, not just Clarence. Mary Powell added that not all municipalities adopted this program.

Ms. Fusco also added that we have received all the payments except for two projects. Mr. Castilone has made payment arrangements and knows about the penalties and 4125 Transit-Pomegranate has not paid anything.

Strategic Plan.

This agenda item was not discussed at this time and will be on the agenda at the April meeting.

Donation Policy.

Will be discussed at the April meeting.

Mr. Hartzell thanked everyone for coming and made a friendly motion to adjourn at 8:55 a.m. There was a second by Michael Buettner.

The next meeting is scheduled for April 19, 2012

Respectfully submitted,

Cynthia M. Rosel